

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

DEAN MOSES,

Plaintiff,

**ORDER**

**24-CV-4291 (JGK) (JW)**

-against-

COMMERCE MEDIA HOLDINGS, LLC,

Defendant.

-----  
**JENNIFER E. WILLIS, UNITED STATES MAGISTRATE JUDGE:**

This matter has been referred for settlement. Dkt. No. 17.

Should the Parties wish to schedule a settlement conference, the Parties are directed to contact Courtroom Deputy Christopher Davis via email **by September 27, 2024**, at [WillisNYSDChambers@nysd.uscourts.gov](mailto:WillisNYSDChambers@nysd.uscourts.gov) to provide three mutually agreeable dates in **October, November, or December**. Any conference will be held in person at Courtroom 228, 40 Foley Square, New York, New York. Should the Parties not wish to schedule a settlement conference at this time, they should inform the Court via email by the same deadline.

Parties must attend in person with their counsel. **The Parties should be prepared for the settlement conference to last all day.** Corporate Parties must send the person with decision-making authority to settle the matter to the conference. **At least a week prior to the conference, the Court will hold a pre-conference call with the attorneys.**

The Parties **are required** to prepare pre-conference submissions in accordance with Judge Willis's [Standing Order for All Cases Referred for Settlement](#). These letters must be submitted **three days prior to the date of the pre-conference phone call**. See § 3 of the Standing Order, ("no later than three days before the pre-conference telephone call, counsel for each Party must send the Court

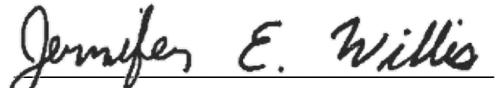
by email a letter, marked “Confidential Material for Use Only at Settlement Conference,” which should not be sent to the other parties. The letter should be sent to WillisNYSDChambers@nysd.uscourts.gov. This *ex parte* letter must not exceed three pages...The letter should include, at a minimum, the following: (a) the history of settlement negotiations, if any, including any prior offers or demands; (b) your evaluation of the settlement value of the case and the rationale for it; (c) any case law authority in support of your settlement position; and (d) any other facts that would be helpful to the Court in preparation for the conference.”).

**The Parties are also required to jointly fill out the attached form** and submit it via email at least **three days prior to the pre-conference phone call**.

Finally, should either Party wish to discuss a possible declaration of bankruptcy, a limited ability to pay an award, or lack of access to cash to fund a settlement, the Parties are strongly encouraged to discuss such issues with opposing counsel prior to the settlement conference and to provide documents in their confidential *ex parte* letters that speak to their financial condition.

SO ORDERED.

DATED: New York, New York  
September 6, 2024

  
JENNIFER E. WILLIS  
United States Magistrate Judge

# SETTLEMENT CONFERENCE FORM

This form should be completed jointly by the Parties and emailed to [WillisNYSDChambers@nysd.uscourts.gov](mailto:WillisNYSDChambers@nysd.uscourts.gov) no later than three days before the pre-conference telephone call. The answers to this form **will be kept confidential and fall within Rule 408 of the Federal Rules of Evidence.**

Please cite to the relevant docket entry where appropriate.

**1. Has a deadline for fact discovery been set in this case?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, the discovery deadline is/was \_\_\_\_\_

**If so, is discovery closed?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, the discovery deadline is/was \_\_\_\_\_

**Does either Party intend to seek to reopen discovery?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**2. Do the Parties expect any expert discovery?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**Is there a deadline for expert discovery?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, the expert discovery deadline is/was \_\_\_\_\_

**3. Is either Party waiting to receive records (medical records, payroll records, expert reports, etc.) important to its case?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, what are those records? \_\_\_\_\_

Is the Party still prepared to settle even without receipt of those documents?

\_\_\_\_\_

**4. Has a Motion to Dismiss or Motion on the Pleadings Been Filed?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, did the District Judge rule on the Motion to Dismiss?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please list the surviving claims below:

---

**5. Has a Motion for Summary Judgment Been Filed?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, did the District Judge rule on the Motion?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, what did the District Judge rule?

Granted \_\_\_\_\_ Denied \_\_\_\_\_ Granted in part \_\_\_\_\_

If no, do the Parties intend to file for summary judgment?

Yes \_\_\_\_\_ No \_\_\_\_\_

**6. Are attorney's fees part of the damages calculation? If so, to date, what are the total attorney fees accumulated in the case?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, \$ \_\_\_\_\_

**7. Is this a fee-shifting case, if so, please identify the relevant statute.**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, the relevant statute is: \_\_\_\_\_

**8. What are the estimated attorney fees for each side for the next stages of the litigation?**

Plaintiff \$ \_\_\_\_\_ Prefer Not to answer \_\_\_\_\_

Defendant \$ \_\_\_\_\_ Prefer Not to answer \_\_\_\_\_

**9. Are there any financial constraints affecting the settlement discussions the Court should be aware of?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, what are those financial constraints? \_\_\_\_\_

**10. What was Plaintiff's last best offer? When was this offer made?**

\$\_\_\_\_\_

Date of Offer: \_\_\_\_\_

**11. What was Defendant's last best offer? When was this offer made?**

\$\_\_\_\_\_

Date of Offer: \_\_\_\_\_

**12. If this case were to go to trial, do the Parties anticipate it will be a bench trial or a jury trial?**

Bench Trial\_\_\_\_\_

Jury Trial\_\_\_\_\_

**13. Does either Party intend to raise an inability to pay defense?**

**Plaintiff/Cross Defendant**

Yes \_\_\_\_\_ No \_\_\_\_\_

**Defendant/Cross Plaintiff**

Yes \_\_\_\_\_ No \_\_\_\_\_

**If so, have the Parties shared any financial documents demonstrating an inability to pay?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**14. Are there any other impediments to settlement that the Court should be aware of?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please describe.\_\_\_\_\_